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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,833	07/01/2003	Matthew F. Hogge	B03-13	3045

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EXAMINER

GORDON, RAEANN

ART UNIT PAPER NUMBER

3711

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/611,833

**Applicant(s)**

HOGGE ET AL.

**Examiner**

Raeann Gorden

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 and 33-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 and 34-47 is/are allowed.
- 6) ☒ Claim(s) 1,2,8-10,14,16,20,21,30 and 33 is/are rejected.
- 7) ☒ Claim(s) 3-7,11-13,15,17-19 and 22-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (5,820,488). Sullivan discloses a golf ball comprising a core, an intermediate layer and a cover. The intermediate layer has a moisture vapor transmission rate less than the cover (abstract). The golf ball has a diameter of 1.68 inches or more, the intermediate layer has a thickness of no more than 20 mils or 0.02 inch (col. 3, lines 1-5), and the cover layer has a thickness from 25 to 100 mils or 0.025 to 0.1 inch. Applicant claims a cover of about 0.01 inch, which is slightly lower than the value disclosed by Sullivan. One of ordinary skill in the art would vary the thickness for the desired properties. Applicant is advised to show the criticality of the cover layer thickness.

Claims 1, 2, 8-10, 14, 16, 20, 21, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohama et al (2003/0148826). Regarding claim 1, Ohama discloses a golf ball comprising a core, a mid layer (app's barrier layer), and a cover. The mid layer is made from a matrix material (binder) and solid particles. The solid particles can be made with a thermoplastic material and the matrix material may be

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rubber or synthetic resin. Regarding claim 2, the matrix material may be styrene butadiene [0026]. Regarding claims 8 and 9, the solid particles occupied in the mid layer are 3 to 40% by weight [0023]. Regarding claim 10, the matrix material includes a crosslinking agent [0027]. Regarding claim 14, additives may be included in the particle composition [0035]. Regarding claim 16, the mid layer has thickness greater than 0.3 mm or 0.012 inch [0022]. Regarding claims 20 and 21, the properties of the barrier layer claimed by applicant are obvious features of Ohama since the base materials are the same. Regarding claim 30, the method of forming the barrier layer does not appear to further limit the golf ball. See MPEP 2113. Ohama does not disclose the moisture vapor rate of the mid layer lower than the cover layer. However, the feature is considered obvious since the materials for the layer are similar.

### ***Allowable Subject Matter***

Claims 31 and 34-47 are allowed.

Claims 3-7, 11-13, 15, 17-19, and 22-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

The indicated allowability of claim 1 is withdrawn.

### ***Conclusion***

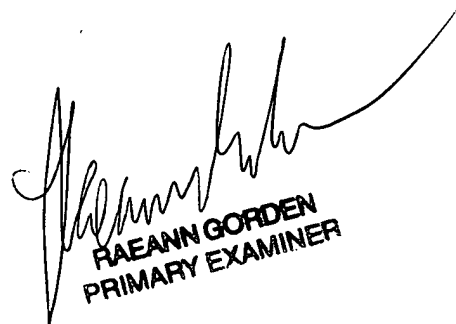
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 571-272-4409. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

December 12, 2004



RAEANN GORDEN  
PRIMARY EXAMINER